

To: Mark Schneider-D/HA

From: Jim Chamberlin  
ARSA/ECAS

I have a copy  
Re: Meeting on HR Report  
on Brazil.

Comments by former  
Cimbarru HR officer

Zeli Brazil  
11/2/77

GUIDE TO MARC NICOLSON'S COMMENTS ON THE H. R. REPORT

Comment #1. Under A.1.A., delete sentence beginning 16 lines down.

Under A.1.b., end of last line, add "or political prisoners".

Comment #2. Under A.1.d., delete first sentence.

Comment #3. Under A.2.a., seven lines down, first two words; change to read, "may be". End of paragraph, add words from Comment #1: "Several members of the clergy supporting the urban poor ...etc."

Comment #4. Page 3, second line down: delete "However"; begin sentence with "Even" on next line. Insert on line four, before "censorship", "and sporadic economic coercion against certain publications,".

Comment #5. Page 3, under b., last five lines.

Comment #6. Third line from the bottom: delete "decree law".

Comment #7. Page 4; delete, fifth line down, "and increase... over the Congress." Ninth line down; delete "...reduce...Congress." Substitute: "...thereby increase the Executive Branch's control over the Congress."

Comment #8. Third line from the bottom, page 4.

Comment #9. Page 5; fourth line down.

Comment #10. Last two lines, first paragraph, page 5.

Page 6, third paragraph, fifth line down: delete "the National Security Law"; insert "Institutional Act 5".

Page 7, second line down; delete "Other"; substitute "A few".

Page 9, second paragraph, line seven: insert between "to" and "Brazil's": "future prosperity and".

Comment #11. Page 12, lines three through eight.

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To: Norman Bouton ARA/ECA/BR  
Jim Chamberlin ARA/ECA/BR

November 7, 1977

From: Marc Nicholson INR/CIS x20808

Subject: Comments on draft Human Rights Evaluation Report on Brazil

You asked for my comments on the draft report. I think it is well done, particularly Section B, Analyses and Recommendations. There are several changes I would recommend in the descriptive Section A. I have noted these directly on the draft, and/or numerically cross-referenced the relevant section of text to the following specific comments/suggestions:

1. I would eliminate this sentence. With regard to killings, the only priest to die at the hands of an "authority" was Father Burnier in Mato Grosso, who was shot last year by a private or corporal of the Mato Grosso state police in the course of a heated exchange over mistreatment of prisoners. It was an indisciplined act by a low-ranking member of one of Brazil's most poorly manned police outfits, and the perpetrator and several colleagues were promptly expelled from the force and arrested. The incident was more a personal crime of passion than an official and/or political act. Thus, the sentence suggests a degree of premeditation or GOB involvement which did not exist at any policy or command level.

With regard to "mistreatment," which is in the context of the paragraph implies torture or physical abuse, I know of no such case involving priests. Father Florentino Maboni was held nearly incommunicado in Belem for a month or so and was subjected to intense interrogation by military intelligence officials, but the bulk of evidence, including some of Maboni's later statements, points away from any physical abuse. Rosebaugh and Capuano, probably thanks to their ragged appearance, were caught up in the "arrest first and sort things out later" syndrome of the Brazilian police. The degree of political motivation on the part of the arresting officers is doubtful, however, and such physical mistreatment as the missionaries suffered was meted out by their cellmates. I can recall no other case in recent years involving priests where there was any suggestion of physical mistreatment by the authorities.

So I would eliminate that sentence and instead add as a new last sentence to the first paragraph under 2a (Freedom of thought...) the following: "Several members of the clergy supporting the urban poor and poor farmers in the interior have been temporarily held and interrogated by the authorities and/or required to leave Brazil." This sentence would more accurately portray the real arsenal which the GOB has employed against "misbehaving" clerics: interrogation with the threat, implicit or explicit, or prosecution under the National Security Law; and, in the case of foreign national priests, the threat of legal or de facto deportation or expulsion from Brazil (which has been carried out in a couple cases).

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2. I would eliminate this sentence, which we in the Embassy slid over last year without much thought when we reviewed that report. The sentence suggests that the GOB holds a number of persons in indefinite confinement with no intention of bringing them to trial, which is not the case. At any given moment, of course, there will be persons who "have not been brought to trial" because they are in pre-trial confinement awaiting the completion of investigations. This is as true of the U.S. as of Brazil. Brazilian legal process, it must be said, is antiquated, undermanned, and sluggish; thus, one or even two years often separate the initial arrest from conclusion of trial and appeals in National Security Law cases. On the other hand, Brazilian military courts in many cases have released those indicted and have permitted them to await and to stand trial at liberty. So I don't think there is much evidence to support the notion that people are arrested and deliberately withheld from trial. FYI, in some cases, military prosecutors anxious to keep someone in jail and faced with unfavorable verdicts in the military courts have applied precisely the opposite strategy of tying the accused up with appeals ~~and~~ and/or <sup>new</sup> indictments in other jurisdictions, at the same time seeking preventive detention orders in connection with these new legal actions.

3. If this clause is intended to refer to the problems the LDS (Mormon) Church has encountered in obtaining timely visas for its missionaries to Brazil, I would change "apparently discouraged" to "may be discouraged," to indicate a more tentative judgment. I would even consider scratching that clause entirely.

Our inquiries on behalf of the Mormons turned up information, which some later improvement in GOB visa performance tends to support, suggesting that bureaucratic bottlenecks in the visa clearance process, not a political decision, was the source of delay in visa issuance (you presumably have several relevant cables on file). Moreover, two years' close acquaintance with Itamaraty's Consular and Juridical Department has left me very cautious about attributing delays there to motives other than the hopeless sloth (and manpower shortages) which characterize that bureau. SRF/Brasilia tends to feel the same way about SNI's dossier/clearance process, and the Embassy's Regional Security Office can tell its own tales about the periods they have had to wait for local clearance checks on prospective Brazilian employees of the U.S. Mission.

If the GOB were interested in holding up visa issuance, the logical place to begin would not be <sup>with</sup> the Mormons (who have always been emphatic about their fealty to civil authority), but with some of the more "progressive" and "socially conscious" Roman Catholic groups which, from the GOB's point of view, cause the most headaches. But, somewhat to my surprise, I heard no complaints which suggested such a policy while I was in Brazil.

4. This additional clause is intended to refer to the GOB's attempt earlier this year to bring Jornal do Brasil to heel by the withholding of official advertising and delays on the granting of import permits for needed press equipment. A more subtle form of economic pressure results as a secondary effect of the censors' occasional seizure of whole editions of a magazine or paper which has trespassed

the bounds of self-censorship and printed something particularly offensive. The principal victims have been the magazines Movimento and Opiniao. Seizure of a week's edition costs the publisher tens of thousands of dollars in lost revenue. Multiply that by two or three seizures annually, and you have what I think constitutes a coercive economic incentive towards self-censorship.

5. FYI (since I don't think this has ever been mentioned in Embassy reporting), most if not all of these court cases have involved Brazilian citizens abroad who were denied passport services by Brazilian consulates, almost certainly at the behest of SNI, working through Itamaraty's Consular and Juridical Department. The primary motive is to prevent the person involved from returning to Brazil. A secondary aim is to limit the victim's international mobility and hence his ability to engage in "subversive" or anti-Brazil publicity-generating activities abroad, particularly in Europe. Although the Foreign Ministry is almost invariably on the losing side whenever legal redress is sought, Itamaraty officials may reason that the legal effort and cost involved in bringing such actions discourages a number of victims from challenging denial of passports.

6. I have scratched out "decree law" because decree laws are a separate legal category (and numerical series) distinct from Institutional Acts. Decree laws are Presidential-promulgated laws of an ordinary type, while the Institutional Acts ordained by the Revolution comprise more fundamental provisions and are coequal (and, indeed, superior) to the Constitution. I would suggest you simply refer to "Institutional Acts," or perhaps to "Executive-promulgated Institutional Acts." The latter phrase would avoid the legal conceptual confusion with decree laws while getting across the idea of executive imposition.

7. I have altered and transposed the wording in this paragraph to enhance the precision. Geisel's amendments did not operate directly to increase Executive Branch control over the Congress or to reduce the power of the Congressional opposition (although by reducing to a simple majority the votes required for passage of Constitutional amendments, Geisel did reduce the opposition's nominal ability to block passage). The principal thrust of the amendments was, by indirect election, to enhance the electoral chances of ARENA, upon whose support the Executive could depend to control Congress. The end result is the same, but the change in wording might better portray the causal sequence. It would be well to keep in mind, too, that direct election still prevails in one of the two houses of Congress and that, under present rules, the possibility of an MDB majority in that house after the next elections cannot be excluded. This accounted for a good deal of ARENA's dissatisfaction with Geisel's "reforms."

8. I am a bit out of my depth when it comes to labor legislation, but it is my impression that the minimum wage laws cover virtually the entire labor force in Brazil. Actual practice, of course, may

vary considerably from the letter of the law.

9. In addition to INPS, there exists FUNRURAL, which is essentially the counterpart to INPS for <sup>rural</sup> agricultural workers. It is a large undertaking, though not so effective as INPS. Shortly before I left Brazil, the GOB announced a reorganization of the federal welfare system which, if I recall correctly, envisaged at least partial amalgamation of INPS and FUNRURAL into a unified system.

This expansion of the definition of human rights to include government policies towards public welfare-, especially of the poor, is a new concept introduced by our current Administration. The result, as you are no doubt aware, is a dearth of past Embassy reporting in this area which, in addition, tends to be murkily divided (and sometimes lost) between the Political Section, the Economic Section, the Labor Attache, and even the Science Counselor. It is an enormous field to cover, and the report draws very well on what is currently available on it. Hopefully by next year, the Embassy will have produced more material on the subject which can be used to fill out this section a bit more.

10. FYI, Geisel does emphasize social progress and economic well-being as human rights projects/goals of his administration, and I believe he is sincere in this. However, such rhetoric also serves as a verbal parry to complaints of human rights abuses or calls for more political liberalization. Indeed, one of Geisel's favorite themes in connection with this social democracy rhetoric is the necessity for "integral development," i.e. political development (read liberalization) must proceed in coordination (i.e., no faster than) economic/social development. Whatever the merits of that argument, it amounts to a suave way of articulating a go-slow policy on distencao.

11. It may be less kind, but would probably be more accurate to say that the British apparently believe that Geisel's improvements constitute a sufficiently hopeful trend, or minimum performance, that human rights concerns do not warrant the risk of sizeable British economic interests in Brazil, such as the multi-billion dollar Acominas project and lucrative government-to-government contracts for the construction of major combatant ships for the Brazilian Navy. Indeed, I was told about as much by the British Embassy Secretary who handles human rights affairs, not long before I left Brasilia.

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In concluding, I would underscore a point at least partially implicit in the Analyses and Recommendations Section of the report. It seems to me that our most effective instrument or leverage on behalf of human rights in Brazil has not been any stick or carrot, but simply the "bully pulpit," currently occupied by President Carter. By bringing the issue of human rights to the forefront of international attention and, in Brazil, by strengthening and stimulating an already restive human rights lobby, our worldwide propaganda campaign, if you will, has had

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an impact on Brazilian society far beyond that in most other countries. This has been due largely to the fortuitous existence of several other factors in Brazil at this particular point in time: 1) the existence of a nearly free press, facilitating the transmission and amplification of our message to a mass Brazilian audience; 2) the prevalence among elite groups and the better educated of deep-seated historical values of democratic liberalism, combined now in many with a growing weariness and impatience with the now thirteen year-old authoritarian regime; 3) the effective linkage between the issue of human rights and the issue of political liberalization; and 4) the incumbency of a federal administration, and particularly a Brazilian President, at least partly in sympathy with the basic human rights message and as prone to bend somewhat to the pressures that message generates as to forcefully repress those pressures.

How long these factors continue to exist remains to be seen, but so long as they survive, our most effective tool with regard to Brazil is public jawboning on human rights at the Presidential, Cabinet, and sub-Cabinet (i.e. the newsmaking) levels--with or without any specific references to Brazil; plus some discreet but unmistakable gestures of U.S. official recognition and encouragement to human rights activists and organizations in Brazil.